UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COURTNEY LINDE, et al. Plaintiffs, - v - ARAB BANK, PLC, Defendant.	CV-04-2799 (NG)(VVP) and all related cases[1]

REVISED EXPERT REPORT OF PAUL ALLAN SCHOTT

PREPARED FOR:

DEWEY & LEBOEUF LLP
1301 Avenue of the Americas
New York, N.Y. 10019
(212) 259-8000

January 31, 2012

[1] *Litle, et al. v. Arab Bank, PLC,* Case No. CV 04-5449 (E.D.N.Y. 2004) (NG) (VVP); *Coulter, et al. v. Arab Bank, PLC* , Case No. CV 05-365 (E.D.N.Y. 2005) (NG) (VVP); *Almog, et al., v. Arab Bank, PLC*, Case No. CV 04-5564 (E.D.N.Y. 2004) (NG) (VVP); *Afriat-Kurtzer, et al., v. Arab Bank, PLC,* Case No. CV 05-388 (E.D.N.Y. 2005) (NG) (VVP); *Bennett, et al. v. Arab Bank, PLC,* Case No. CV 05-3183 (E.D.N.Y. 2005 (NG) (VVP); *Roth, et al. v. Arab Bank, PLC,* Case No. CV 05-3738 (E.D.N.Y. 2005) (NG) (VVP); *Weiss, et al. v. Arab Bank, PLC,* Case No. CV 06-1623 (E.D.N.Y. 2006) (NG) (VVP); *Jesner, et al. v. Arab Bank, PLC,* Case No. CV 06-3689 (E.D.N.Y.) (NG) (VVP); *Lev, et al. v Arab Bank, PLC,* Case No. CV 08-3251 (E.D.N.Y. 2008) (NG) (VVP); and *Aguerenko, et al., v. Arab Bank, PLC*, CV 10-626 (E.D.N.Y. 2010) (NG) (VVP).

Exhibits

I.

Statement of Qualifications[2]

I have a bachelor's degree from Kent State University, a Juris Doctor from Boston University School of Law, and an L L.M. from Georgetown University Law Center.

I have more than 35 years of experience regulating and representing banks, bank holding companies, financial holding companies, savings and loan associations, savings and loan holding companies, and United States branches and agencies of foreign banks, as an attorney for the federal government, as an attorney in private practice, and as a consultant.

I have served as Chief Counsel to the Office of the Comptroller of the Currency ("OCC"), Assistant General Counsel for Banking and Finance for the United States Treasury Department, and Senior Attorney for the Federal Reserve Board (the "Fed"). I have also been in private practice, as an attorney, and as a consulting partner with the bank regulatory advisory group of PricewaterhouseCoopers LLP, and its predecessor, Coopers & Lybrand LLP, where I was National Director for Bank Regulatory Services.

For the past ten years, I have served as a consultant for the World Bank in its Financial Market Integrity Department with respect to international standards for fighting money laundering and terrorist financing, and I frequently lecture on these topics.

[2] My full curriculum vitae is annexed hereto as Exhibit A.

I have authored the book, *Reference Guide on Anti-Money Laundering and Combating the Financing of Terrorism,* which is a joint publication of the World Bank and International Monetary Fund. In addition, I have co-authored the book, *Fighting Money Laundering and Terrorist Financing: A Practical Guide for Bank Supervisors,* which is published by the World Bank.

II.

Scope of Services and Questions Presented

I have been retained by Dewey & LeBoeuf LLP, counsel for Arab Bank plc, ("Arab Bank" or "Bank") to address the following questions:

- What was the U.S. federal statutory and regulatory framework for anti-money laundering ("AML") and combating the financing of terrorism ("CFT"), both with regard to civil compliance requirements and criminal liability, that was applicable to Arab Bank's New York branch ("ABNY") during the timeframe relevant to this litigation, 1995-2004 ("relevant timeframe")?
- What is the role of the OCC, the Financial Crimes Enforcement Network ("FinCEN") and the U.S. Department of Justice ("DOJ") with regard to financial institutions and efforts to combat money laundering and terrorist financing, and what are the various regulatory and enforcement authorities they possess and utilize?
- Does the failure of a financial institution to have adequate AML and CFT procedures in place mean that it engaged in money laundering or terrorist financing activities?

My answers to these questions are provided below. In reaching these conclusions, I have reviewed a number of documents from the record in this litigation that were provided to me at my request, as well as other materials that I obtained from

public sources. The documents and materials that I have reviewed are listed in Exhibit D annexed hereto.

The conclusions I have stated regarding this matter are as of the date of this report and are based upon the materials I have reviewed as of this date.

I am being compensated at a rate of $600 per hour. My compensation does not depend in any way on the outcome of this litigation.

III.
Summary of Conclusions

A. During the relevant timeframe in this litigation (1995-2004), the U.S. federal statutory and regulatory framework for AML and CFT with respect to financial institutions was evolving and underwent a significant transformation due to the passage in 2001 of the USA PATRIOT Act and the subsequent regulatory structure that followed. As a result, several of the AML and CFT requirements for banks were in transition, and with respect to correspondent banking, such requirements were either non-existent or had not been specified by regulation.

B. The OCC and FinCEN are the U.S. Government agencies tasked with regulating, supervising and enforcing the civil AML and CFT requirements for U.S. national banks and federal branches of foreign banks, while the DOJ is the relevant federal agency charged with prosecuting criminal violations of money laundering and terrorist financing.

C. The failure of a financial institution to have adequate AML and CFT procedures in place does not mean that it engaged in money laundering or terrorist financing activities.

IV.
Discussion

A. Arab Bank and ABNY

Arab Bank is a public shareholding company and banking institution headquartered in Amman, Jordan. [3] As such, it is regulated and supervised under the banking, AML and CFT laws of Jordan by the Jordanian Central Bank. As of 2005, it had approximately 400 branches, offices and subsidiaries located in 30 countries, which constituted the Arab Banking Group.[4] This group offers a wide range of banking services to businesses, organizations, institutions, and individuals in the Middle East and throughout the world, and is a leading provider of financial services in the Middle East and North Africa.[5]

During the relevant timeframe in this litigation, ABNY was a branch of Arab Bank located in New York, New York. It operated as a federal branch of a foreign bank under a license issued by the OCC under federal banking laws, since 1983. [6] In 2005, ABNY converted to a federal agency, pursuant to a consent agreement with the OCC, continuing to operate under federal banking laws and a license issued by the OCC. It was, and is, regulated and supervised for AML/CFT purposes primarily by the OCC.

B. General Information for Understanding U.S. AML and CFT Compliance Requirements

The current international standards and specific U.S. regulatory requirements for AML and CFT that are applicable to banks, their branches and other

---

[3] Fed. Branch of Arab Bank PLC, 2005-2, Assessment of Civil Money Penalty, (FinCEN, Aug. 17, 2005) ("FinCEN Order") at p. 1.

[4] *Id.*

[5] *Id.*

[6] *Id.* at p. 2.

covered financial institutions in the United States have common basic elements. In relevant part, these include:

- conducting customer identification, verification and due diligence (often referred to as "Know Your Customer" or "KYC");
- conducting due diligence for cross-border correspondent banking relationships;
- checking financial transactions against government lists for criminals or terrorists, blocking transactions and freezing accounts;
- monitoring customer accounts for consistency of transactions with the customers' stated nature, purpose and use of accounts;
- reporting suspicious transactions to the regulators;
- developing and implementing internal policies, procedures and controls for assuring compliance, including internal audit or independent testing, designating compliance officers, screening of potential employees, and training; and
- maintaining records for customer identification and the ability to reconstruct transactions.

With the passage of the Bank Secrecy Act ("BSA") in 1970,[7] the U.S. implemented record keeping and reporting requirements for financial institutions. However, explicit regulations and guidelines for financial institutions to perform proactive AML measures were not formulated in the U.S. until decades thereafter.[8]

---

[7] 31 U.S.C. §§ 5311-5355.

[8] *E.g.*, 31 C.F.R. § 103.18 (1996) (Department of Treasury regulations requiring reporting of suspicious activity reports ("SARs")).

In 1989, the G-7 countries formed the Financial Action Task Force ("FATF") as an intergovernmental body. It is now comprised of more than 30 countries, including the U.S., whose purpose was, and is, to develop international policies to combat money laundering at the individual country level so that there might be universal standards. FATF first issued its Forty Recommendations on Money Laundering ("FATF 40") in 1990. Since then, the FATF 40 has been modified in 1996 and in 2003.[9]

In the aftermath of the terrorist attacks of September 11, 2001, the United States and other countries increased their focus on the need for measures to combat terrorist financing specifically, and in October 2001, FATF expanded its mission to include CFT. At that time, it issued Eight Special Recommendations on Terrorist Financing. In October 2004, FATF added a ninth Special Recommendation.[10] Together, these recommendations generally are referred to as the FATF 40+9.

The FATF 40+9, in actuality, are not recommendations, but rather standards that need to be implemented through legislation, regulation or other enforceable means by each country that seeks to abide by these international standards. As a consequence, the specific implementation, interpretation and enforcement of these standards can, and do, vary among the different counties according to the approach adopted by each country. Also as a consequence, international banks, are subject to differing standards depending upon the requirements of the home (chartering or licensing) country and the host country (the country where the bank operates a branch, subsidiary or other entity). Naturally, any bank that operates a branch in another country is obligated to observe the requirements of that host country. International standards

[9] FATF 40 (June 20, 2003), http://www fatf-gafi.org//dataoecd/7/40/34849567.PDF (incorporating the Amendments of Oct. 22, 2004).

[10] FATF, *Special Recommendations on Terrorist Financing* (Oct. 22, 2004).

dictate that a bank should also apply its home country requirements in the host country, unless it is prohibited from doing so by the host country or unless the requirements of the host country are more stringent than the home country, in which case the host country requirements would apply.[11]

C. The U. S. Statutory and Regulatory Framework for Banks, Branches and Agencies of Foreign Banks

1. General Statutory and Regulatory Scheme

Banking organizations are among the most highly regulated and supervised business enterprises operating in the United States. There is a comprehensive statutory structure in place to govern bank and holding company operations and ownership. Congress has authorized the federal banking agencies, *i.e.*, the Board of Governors of the Federal Reserve System ("Federal Reserve Board"), the OCC, and the Federal Deposit Insurance Corporation ("FDIC"), to implement that statutory structure by promulgating detailed regulations. In addition, each of the federal regulators has been given extensive authority to enforce compliance with these statutes and regulations. Moreover, all aspects of bank and holding company operations are subject to regular on-site and off-site examination by trained examiners. Thus, if a banking organization does not comply with applicable statutes or regulations, federal regulators can, and do, bring administrative enforcement actions against the institution, its directors, officers and/or employees.[12] Such enforcement actions may include civil money penalties; cease and desist mandates; removal of officers, directors and/or employees; lifetime bans on

---

[11] *See* FATF 40, *supra* at recommendation 22; *see also* Basel Committee on Banking Supervision, *Consumer Due Diligence for Banks*, at ¶ 66, (October 2001), http://www.bis.org/publ/bcbs77.pdf. (where minimum KYC standards of home and host countries differ, branches and subsidiaries in *host* countries should apply the higher standard of the two, but stating no requirement that higher standard in host country should be applicable back to home country).

[12] *See generally* 12 U.S.C. § 1818.

individuals from participation in bank and holding company matters; and ultimately, the closure of the institution. A more detailed description of such enforcement actions is set forth in Section E below. In addition, federal law requires that any final, formal enforcement action against a bank or holding company, such as those described above, must be publicly disclosed by the federal regulator charged with the primary supervision of the offending institution.[13]

2. National Bank Supervision and Regulation

A bank in the U. S. may be chartered either by one of the fifty states or the federal government. This is referred to as the dual banking system.[14] Federal deposit insurance and accompanying oversight by the FDIC, however, is mandatory for either type of charter. At the federal level, banks are chartered as national banks under the National Bank Act and are subject to the primary supervision and regulation of the OCC, a bureau of the United States Treasury Department. The National Bank Act prescribes requirements for, and limitations on, national bank ownership, prior approval requirements for obtaining a charter before the bank is permitted to operate and for opening or closing branch offices, specific powers and privileges of a national bank, and restrictions on operations. The National Bank Act also authorizes the OCC to promulgate regulations to implement that Act.[15]

Of course, U.S. national banks are subject to numerous other federal statutes and regulations. Most of these are supervised and enforced by the OCC through

---

[13] 12 U.S.C. § 1818(u). In addition, FinCEN actions are made publicly available.

[14] *See generally* U.S. Dep't of Treas., Comptroller of the Currency, *National Banks and the Dual Banking System* (Sept. 2003), *available at* http://www.occ.treas.gov/static/publications/DualBanking.pdf.

[15] State-chartered banks are subject to similar and, in many cases, identical provisions as national banks, but are also subject to the primary supervision and regulation by the appropriate state regulator. This report does not discuss further the regulation of state-chartered banks because it is not relevant for the purposes of this report.

on-site and off-site examinations by trained examiners; others are administered and enforced by the federal agency with jurisdiction over the statute involved. For example, violations of federal criminal laws to which national banks are subject are prosecuted by the Department of Justice. Finally, as with other corporate entities, national banks are also subject to various state and local laws and regulations, which are administered and enforced by the state or local authority with appropriate subject matter jurisdiction.

3. Branches and Agencies of Foreign Banks

If a foreign bank chooses to establish a physical presence in the U.S., it may do so by chartering or acquiring a U.S. subsidiary bank, or by establishing a branch, agency, representative office, or other permissible vehicle. Similar to establishing a bank, a foreign bank must obtain a charter or license to establish a branch before it is permitted to engage in any banking business in the U.S.[16] Also similar to establishing a bank, a foreign bank has the option of operating under either a state or federal charter or license.[17]

With respect to a federal license, there are two levels of powers: a branch, which has all of the product and service powers of a national bank; or an agency, which has the same powers as a branch, except that an agency may not accept deposits and, as a consequence, may not engage in clearing and funds transfer activities. Regardless of which option is chosen, the activities of the entity are subject to the same supervision and regulation by the OCC as if the entity were a national bank.

---

[16] 12 C.F.R. § 28.12 (2008).

[17] States may differ somewhat as to the scope of permissible activities and operations and may also offer certain licenses with lesser degrees of powers than a branch or agency, but state variations are not discussed further since they are not relevant for the purposes of this report.

A federal branch or agency is subject to all applicable U.S. statutes and regulations within the borders of the U.S. The compliance requirements, or other requirements, applicable to branches and agencies of foreign banks within the U.S. are not applicable to the operations of the foreign bank outside of U.S. borders.[18]

D. The U. S. Statutory and Regulatory Framework for AML and CFT

1. The Relevant Statutes and Regulations

Banks play a crucial role in facilitating international commerce through international funds transfers via safe and secure wire transactions, and foreign exchange utilizing highly complex, yet highly efficient, mechanisms. They have the unique ability to convert cash into value-storing and easily transferable financial instruments. In addition, banks have the ability to transfer funds through wire transfers from, to and through other banks and financial institutions. These necessary and important attributes, however, can be exploited to launder money and, thereby, assist criminals in profiting from their crimes. These same attributes also make banks susceptible to those who finance terrorism. Because of this, financial institutions, and banks in particular, have become the focus of a variety of statutory and regulatory requirements designed to help law enforcement authorities deter and detect money laundering and terrorist financing, as well as to report suspicious transactions or financial activities involving either. These AML and CFT requirements are both civil in nature, *i.e.*, those administered and enforced by federal bank regulators, and criminal in nature, *i.e.*, those enforced by the DOJ through criminal prosecution. The various civil provisions are collectively referred to as

[18] *See, e.g.*, U. S. Dep't of Treas., *Resource Center, OFAC FAQs Question Index,* http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx (follow "Who must comply with OFAC regulations?" hyperlink) ("All U.S. persons must comply with OFAC regulations, including all U.S. citizens and permanent resident aliens regardless of where they are located, all persons and entities within the United States, all U.S. incorporated entities and their foreign branches.").

the Bank Secrecy Act ("BSA").[19] The applicable criminal provisions against money laundering are found at 18 U.S.C. §§ 1956 and 1957. The applicable criminal provisions against the financing of terrorism are found at 18 U.S.C. § 2339C.

2. What Is Money Laundering?

Money laundering is generally defined as the act of transforming funds gained from illegal or illicit activities into funds that have an appearance of legitimacy. Historically, money laundering has been associated with crimes such as drug trafficking. Money laundering involves the proceeds of criminally derived property, rather than the property involved with the crime itself. The purpose of concealing and disguising the proceeds of crime is, of course, to separate the criminal and the proceeds from the underlying criminal activity and, ultimately, to legitimize the proceeds so that the criminal may profit from the crime.

A money laundering predicate offense is the underlying criminal activity that generates the proceeds, which, when laundered, results in the offense of money laundering. The process of money laundering may involve different types of financial institutions; multiple financial transactions; the use of intermediaries, such as shell corporations, trusts, attorneys, accountants and other service providers; transfers to, through and from different countries; and the use of different financial instruments and other types of transferable, value-storing assets, such as precious gems or metals.

The money laundering process may be described in three stages. The initial stage involves the placement of illegally derived funds into the financial system, usually through a financial institution. Placement may be accomplished by making a deposit in a bank or securities firm, or by the cash purchase of a security or investment-

[19] 31 U.S.C. §§ 5311-5355.

type insurance contract. The second stage, referred to as layering, occurs after the illicit funds have entered the financial system. At this stage, the initial deposit, security or insurance contract is converted to another type of financial instrument and/or transferred to another financial institution. The layering stage may involve multiple instruments and financial institutions. Finally, the third stage involves the integration of funds into the legitimate economy. Integration may be accomplished through the purchase of assets, such as real estate, investment securities or other financial assets, or luxury goods, such as jewelry, antiques and automobiles.

3. What is Terrorist Financing?

The International Convention for Suppression of the Financing of Terrorism defines terror financing as a transaction whereby "[a] person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out" an act defined by the Convention as terrorism.[20] The USA PATRIOT Act of 2001 amended 18 U.S.C. § 2339A, which prohibits knowingly or intentionally providing "material support or resources" for terrorism, to define "material support or resources" as "any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel . . . and transportation. . . ." [21] Terrorist financing thus involves funds that may not have been criminally derived, but their ultimate use is criminal. Those who finance terrorism,

[20] U.N. General Assembly, *International Convention for Suppression of the Financing of Terrorism*, G.A. Res. 54/109, Art. 2(1) (Dec. 9, 1999).

[21] 18 U.S.C. § 2339A(b)(1).

however, may utilize the same techniques as money launderers to conceal the sources and uses of their funds. As a result, the same compliance requirements used as preventative measures are imposed upon financial institutions to help combat terrorist financing, and in this regard, terrorist financing is a predicate offense for the crime of money laundering.

The key distinction between AML and CFT is that the former seeks to reveal criminal activity that has already occurred based upon one or more of the predicate offenses for money laundering. The latter, on the other hand, seeks to identify transactions that may be used to fund acts of terrorism, intended acts of terrorism, terrorist groups, or individuals or groups identified on certain blacklists, whether or not the funds were derived from criminal activity. These preventive and detection objectives of CFT present an even greater challenge for banks than AML.

4. The Basic Elements of the U.S. AML and CFT for Purposes of this Report

The AML/CFT regime of the United States consists of three major parts: deterrence, detection, and prosecution. Banks and other financial institutions play a role in the deterrence and/or detection aspects of money laundering and terrorist financing by requiring customer identification and conducting due diligence on customers. They also monitor accounts for any unusual transaction(s) or activity and, if determined to be suspicious, for reporting such transaction(s) or activity to law enforcement authorities. Banks and other financial institutions also assist in the prosecution of criminals by retaining records about customers and their transactions and making such records available to law enforcement authorities. Beyond these activities, banks rely on their regulators and law enforcement authorities, who have the primary responsibility for

investigating and prosecuting crim inals, to inform banks of individuals and entities suspected of criminal activity and for whom banks should not perform services.

By statu te, each of the three federa l bank ing regulators is requ ired to promulgate regulations requiri ng each institution under its respective jurisdiction to establish an d m aintain procedu res rea sonably designed to assure and m onitor the institution's com pliance with the re quirements of the Bank Secrecy Act. [22] This statute also requires each regulator to make a review of each institution's compliance program as part of the regulator's examination process.[23] Finally, this statutory scheme also provides that if an institution fails to establish and maintain such a compliance program, or fails to correct a p roblem reported to the in stitution by its r egulator, the regu lator *shall* issu e a cease and desist order against the institution.[24]

The elements of a compliance program on which the U.S. reg ulators focus when exam ining financial ins titutions have lik ewise evolv ed over tim e. In 1987, for example, the OCC enacted regulations requi ring banks under the OCC's supervision t o institute a Bank Secrecy Act ("BSA") compliance program, including:[25]

- A system of internal controls to insure compliance;
- Independent testing for compliance;
- A designated individual(s) for coordinating and m onitoring compliance; and
- Training for appropriate personnel.

---

22 12 U.S.C. § 1818(s).
23 *Id.*
24 *Id.*
25 Rules and Regulations, Dep't of the Treas., 12 C.F.R. § 21.21; 52 Fed. Reg. 2859 (Jan. 1987).

Yet the reporting requirements of the BSA, as of 1987, consisted primarily of reporting large currency transactions. Thus, the compliance program at that time, as dictated by the OCC's regulation, was intended primarily to assure proper reporting of currency transactions.

In addition, the Secretary of the Treasury has the authority to determine whether a financial institution has violated the BSA (31 USC § 5311 *et seq*.) and the regulations issued pursuant thereto (31 CFR § 103). FinCEN is the bureau within the Department of Treasury charged with enforcing BSA matters. As a practical matter, FinCEN relies on the federal bank regulatory agencies to enforce their own AML and CFT statutory and regulatory requirements as well as those of the BSA and its implementing regulations. Nonetheless, FinCEN does take action on its own with regard to civil money penalties.

In 1996, the U.S. Department of Treasury issued a regulation requiring banks, for the first time, to file SARs, beginning on April 1st of that year, under certain conditions.[26] A bank is required to file a SAR for a transaction involving (or multiple transactions aggregating) at least $5,000.00 whenever it knows, suspects or has reason to suspect that the transaction(s) is suspicious.[27] In general, a transaction is suspicious if it (1) involves funds derived from illegal activities, or is designed to disguise funds derived from illegal activities; (2) is designed to evade reporting or record keeping requirements of the BSA Act or its implementing regulations; or (3) has no business or apparent lawful purpose or is not the sort in which the customer would normally engage, and the bank knows of no reasonable explanation for the transaction after examining the available

[26] 31 C.F.R. § 103.18. 61 Fed. Reg. 4331 (Feb. 5, 1996); as amended 61 Fed. Reg. 14249 (Apr. 1,1996) and 61 Fed. Reg. 18250 (April 25, 1996). Redesignated at 65 Fed. Reg. 13692 (Mar. 14, 2000)

[27] 31 C.F.R. § 103.18.

facts, including the background and possible purpose of the transaction.[28] This requirement, however, did not translate into a practice by banks at that time to monitor correspondent banking transactions for the specific purpose of detecting and reporting suspicious activities. Only with the passage of Section 312 of the Patriot Act, which became effective on July 23, 2002, was there a statutory due diligence requirement with respect to correspondent banking relationships.[29] However, FinCEN did not implement final rulemaking on this statutory provision until February of 2006.[30]

On May 30 2002, FinCEN published for comment a proposed rule to implement Section 312, which became effective on July 23, 2002, whether or not regulations were in place to implement the statute.[31] Because of the complexity of the issues raised by the proposed rule, FinCEN did not promulgate a final rule by the date Section 312 became effective.[32] Rather, it issued a final interim rule that became effective on July 23, 2002.[33] The interim rule largely repeated the statutory requirements of Section 312 and did not provide specifics on how to satisfy the statutory requirements. The interim rule stated, "Treasury acknowledges that, as a practical matter, banks will be unable to craft and implement final comprehensive due diligence policies and procedures pursuant to the dictates of section 5318 (i)(1) until Treasury issues a final rule."[34] The interim rule went on to state, "in the interim, a reasonable due diligence policy, in Treasury's view, is one that comports with existing best practices standards for banks that

---

[28] *Id.* *See* FinCen Order at 6 and Federal Financial Institutions Examination Council, *Bank Secrecy Act/Anti-Money Laundering Examination Manual* (2007) ("Examination Manual") at p. 60, available at http://www ffiec.gov/bsa_amlinfobase/documents.BSA_AML_Man_2007.pdf.

[29] 31 U.S.C. § 5318(i).

[30] 71 Fed. Reg. 495 (Jan. 4, 2006), effective Feb. 3, 2006.

[31] 67 Fed. Reg. 37736 (May 30, 2002).

[32] Federal Reserve Board, Supervisory Letter, SR 02-18, July 23, 2002, at 1.

[33] 67 Fed. Reg. 48348 (July 23, 2002).

[34] *Id.* at 48350.

maintain correspondent accounts for foreign banks, [35]…."[36] The Clearing House Guidelines, which are referred to in the interim rule as best practices, generally do not address the issue of originators or beneficiaries of wire transfers for a respondent bank through its correspondent accounts. Therefore, as a consequence, prior to the final rule in 2006, there was no guidance with respect to, or articulation of the standard for, Section 312 from Treasury or any other regulator with regard to originators and beneficiaries of wire transfers for noncustomers of a respondent bank and its correspondent banking relationships. In fact, even by 2007, bank examiners were not instructed to determine whether a correspondent bank monitors the originators and beneficiaries of non-customers of the bank in its correspondent banking relationships.[37]

With regard to funds derived from illegal activities, banks are not obligated, and, in fact, do not investigate or confirm the underlying illegal activity (*e.g.*, money laundering, terrorism, various types of fraud). Investigation is the sole responsibility of law enforcement. Financial institutions do, however, assist with investigations by providing copies of their records and other information to appropriate law enforcement authorities. Moreover, the filing of a SAR does not require that a bank stop doing business with the customer. Furthermore, regulators take the position that a bank's internal controls for filing SARs should minimize risks of disclosure.[38] In this regard, while the SAR reporting entity within a bank may report the filing of a SAR to its

---

[35] Here the interim rule had a footnote referring to, among other things, the New York Clearing House Association L.L.C., Guidelines for Counter Money Laundering Policies and Procedures in Correspondent Banking (March 2002) at www.nych.org ("Clearing House Guidelines") as an example of best practices.

[36] 67 Fed. Reg. 48348 (July 23, 2002), at 48350.

[37] Examination Manual.

[38] *Id.* at p. 68-69.

head office or holding company, it should not report the filing of a SAR to the customer, any other person, or even any affiliate of the bank.[39]

There is no "one-size-fits-all" approach to compliance. A financial institution generally has to be able to demonstrate to its regulator that its specific policies and procedures are adequate to achieve AML and CFT objectives, given the institution's size, complexity, location, and types of customer relationships. The duty of banks to comply with the federal civil AML/CFT compliance requirements runs only to the federal government, as supervised and enforced by its appropriate agencies. No duty to any third party is created by the failure to comply fully with such requirements.

E. The Role of the OCC, FinCEN and the DOJ in Connection With AML and CFT

1. The OCC

As the former Chief Counsel of the OCC, I am acutely aware of the operations of the OCC, especially with respect to its efforts in AML and CFT. As described earlier, the OCC is a bureau of the U.S. Department of Treasury that regulates and supervises national banks, and branches and agencies of foreign banks, in the U.S. The primary role of the OCC is to:

- Ensure the safety and soundness of the national system of banks and savings associations;
- Foster competition by allowing banks to offer new products and services;
- Improve the efficiency and effectiveness of OCC supervision, including reducing regulatory burden; and
- Ensure fair and equal access to financial services for all Americans.[40]

---

[39] *Id.* at pp. 68-69, 71.

[40] *See* "*About The OCC, The OCC's Objectives*," available at http://www.occ.gov/about/what-we-do/mission/index-about.html.

In order to achieve these goals, the OCC maintains a staff of bank examiners who conduct regular on-site examinations and overall supervision of the operations at the financial institutions under its jurisdiction, with the purpose of ensuring that the institutions are in compliance with all relevant laws and regulations and are engaging in safe and sound banking practices.[41] The OCC's supervision continues for as long as the institution is in existence, and the scope of an examination depends on any number of factors, including the size of the institution and the complexity of its products and services, but will always include a thorough review of the financial institution's efforts regarding AML and, since 2001, CFT.[42]

Depending on the results of an examination, which are issued in a Report of Examination, the OCC may utilize enforcement actions against financial institutions that the OCC finds have not sufficiently complied with laws and/or regulations, or have engaged in unsound banking practices. Normally, the OCC has options regarding the type of enforcement action it may take against any particular institution depending upon the severity of the compliance matter and other factors, such as repeat offenses or the failure to take corrective action. As noted previously, in the case of a failure to have an adequate AML/CFT compliance program in place, the OCC is required by statute to issue a cease and desist order against the institution.[43] Cease and desist orders generally are used by the OCC to communicate the OCC's criticism of a bank's operations and to require the bank to take remedial action. Criticisms by the OCC are a normal part of the supervisory process, and in fact, from 1994-2005, the OCC issued 839 enforcement actions against financial institutions for a variety of reasons, including cease and desist

41 The OCC may also institute targeted examinations in addition to the regular examinations.
42 In addition, multi-national banks have examiners on-site on a year round basis.
43 12 USC § 1818(s). *See also*, discussion at footnote 24.

orders for failures in AML and CFT procedures. However, even in the event of such an order, the failure to have adequate AML and CFT procedures in place does not mean that a bank actually engaged in money laundering or terrorist financing. Indeed, such a finding would be in the province of the DOJ, which could then prosecute the institution for criminal violations.

Because the OCC's supervision is on-going, it does take into account whether a financial institution has failed to take appropriate remedial action after an initial finding requiring corrective measures. In fact, the OCC specifically checks to see if appropriate remedial action has been taken in accordance with the timeframes specified in the relevant cease and desist order and may complete a targeted examination to ensure compliance has been achieved. For example, in the case of the New York branch of United Bank for Africa, the OCC issued a cease and desist order on January 18, 2007, requiring certain corrective actions to be taken within specified time frames.[44] It then imposed a civil money penalty of $500,000 approximately three and one-half months later when adequate and timely action was not taken by the bank. Later, when a targeted examination revealed that problems continued, the OCC issued a new cease and desist order and followed that with a civil money penalty of $15,000,000.[45] Notably, the language utilized by OCC in the consent order indicated the severity of the failures at issue: "the Branch recklessly engaged in unsafe or unsound banking practices" and that "violations of law remained pervasive and systematic throughout the branch."[46]

---

[44] Federal Branch of United Bank for Africa, 2007-03, Consent Order (OCC, January 19, 2007).

[45] Federal Branch of United Bank for Africa, 2008-007 and 2008-029, Consent Orders (OCC, Feb. 29, 2008, and Apr. 22, 2008, respectively).

[46] Federal Branch of United Bank for Africa, Consent Order (OCC, April 22, 2008) at p. 2-3.

Another example involved Riggs Bank, which in 2003 entered into a consent cease and desist order to correct a number of BSA-related deficiencies.[47] Approximately ten months later, the deficiencies were not corrected, and the OCC determined that there were additional violations. As a result, the OCC concluded that Riggs "engaged in systemic violations of law, regulations and a final order and failed to correct those violations."[48] As a consequence, the OCC imposed a $25,000,000 civil money penalty.[49]

The OCC also has the authority to remove a management official of a bank or branch of a foreign bank. In the case of the New York Branch of Banco de Chile, which had agreed to a consent order with the OCC to correct BSA-related deficiencies,[50] the OCC later removed the general manager of the branch from office, imposed civil money penalties on the former manager and imposed a lifetime ban on his participation with any other insured institution in the U. S.[51]

In addition, the OCC can make a criminal referral to the DOJ. Based on my experience, it is very common for the OCC to make such a referral to the DOJ, which would then decide whether to conduct an independent investigation. After such investigation, the DOJ would make a determination whether to pursue a criminal prosecution against the institution and/or individual(s).

2. FinCEN

As noted previously, FinCEN has its own authority to determine whether a

---

47 Riggs Bank, 2003-79, Consent Order (July 16, 2003).
48 Riggs Bank, 2004-44, Consent Order (May 13, 2004) at p. 7.
49 *Id*.
50 New York Branch of Banco de Chile, 2005-2, Consent Order (OCC, Feb. 1, 2005).
51 Hernan Donoso, former general manager of the New York Branch of Banco de Chile, 2005-42, Consent Orders (OCC, Apr. 14, 2005).

financial institution has violated the BSA and what civil money penalty to impose. With regard to banks and U. S. branches of foreign banks, FinCEN acts in coordination with the appropriate federal bank regulator.[52] The primary difference is that FinCEN identifies the deficiencies, based upon its own investigation and the findings of the appropriate bank regulator, and issues a civil money penalty, while the regulator uses its authority to impose specific corrective actions to be taken through its cease and desist authority. In each of the OCC cases cited above, FinCEN issued its own order regarding the deficiencies involved and imposed a civil money penalty, which was to be concurrent with the civil money penalty imposed by the OCC.[53]

At the same time, FinCEN also works in conjunction with the DOJ. For example, in the Wachovia cases, the OCC imposed a $50,000,000 civil money penalty, while the DOJ and FinCEN each imposed $110,000,000 civil money penalties, which were to run concurrently. Because the OCC penalty was separate and additional to the DOJ's and FinCEN's concurrent penalties, the total amount in penalties paid by Wachovia was $160,000,000.[54]

Similar to the OCC, the language used in FinCEN's findings will indicate the severity of the violation at issue, and may even indicate whether it was willful. As evidenced by several of the civil money penalties issued by FinCEN, it will not hesitate to make a finding that a violation is willful. For example, in the Riggs Bank case

---

[52] The OCC, the Federal Reserve Board and the Federal Deposition Insurance Corporation.

[53] In the matter of New York Branch of United Bank for Africa, PLC, No. 2008-3, Assessment of Civil Money Penalty (FinCen, Apr. 22, 2008); In the Matter of Riggs Bank, NA, No. 2004-01, Assessment of Civil Money Penalty (FinCen, May 13, 2004); In the Matter of the New York Branch of Banco de Chile, No. 2005-03 (FinCen, Oct. 12, 2005).

[54] In the matter of Wachovia Bank, National Association, Charlotte, North Carolina, No. AA-EC-10-16, Consent Order for a Civil Money Penalty (OCC, Mar. 10, 2010); In the Matter of Wachovia Bank, No. 2010-1, Assessment of Civil Money Penalty (FinCEN, March 12, 2010); United States of America v. Wachovia Bank, N. A., U. S. District Court for the Southern District of Florida, Case No. 10-20165-CR-LENARD, March 16, 2010.

discussed above, FinCEN dedicated a separate section of its Assessment of Civil Money Penalty to address the "willful nature" of the BSA violations,[55] and concluded that the Riggs Bank:

> willfully violated the suspicious activity and currency transaction reporting requirements of the BSA and its implementing regulations, and that Riggs has willfully violated the anti-money laundering program ("AML program") requirement of the BSA and its implementing regulations.[56]

FinCEN went on to say that that these willful violations were systemic – a term also used by the OCC.[57] FinCEN also characterized a bank's behavior as willful when "it demonstrates a reckless disregard for its obligations under law or regulation." FinCEN found that the systematic violations by Riggs and its failure to correct identified deficiencies demonstrated reckless disregard by Riggs.[58]

Likewise, in the AmSouth case, FinCEN concluded that AmSouth Bank's conduct constituted a willful violation of law. FinCEN found that AmSouth Bank "willfully violated the anti-money laundering program and suspicious activity reporting requirements of the Bank Secrecy Act and its implementing regulations."[59]

Involving all of the cases cited above, for both FinCEN and the OCC, there was no adjudication of the facts. Rather, the parties consented to the orders without admitting or denying the facts as presented by FinCEN or the OCC.

3. DOJ

As noted previously, under the relevant criminal statutes, the DOJ has the

---

[55] In the matter of Riggs Bank, N.A., No 2004-01, Assessment of Civil Money Penalty (FinCen, May 13, 2004) at p. 8.

[56] *Id.,* at p. 1.

[57] *Id.*, at p. 2.

[58] *Id.*, at p. 8.

[59] In the matter of Amsouth Bank, No. 2004-02, Assessment of Civil Money Penalty (FinCen, Oct. 12, 2004), at pp.1and 2.

authority to institute investigations or prosecutions against financial institutions and individuals for money laundering and terrorist financing. As discussed above, the DOJ may defer prosecution of a case based upon the institution's cooperation with bank regulators and FinCEN and commitment to remedy deficiencies within certain timeframes.[60] In such cases, prosecution is not pursued if the conditions and commitments are satisfied in a timely manner.[61]

4. The OCC and FinCEN Orders Regarding Arab Bank

In 2005, after an examination and investigation, with which ABNY fully cooperated, as noted by the OCC, ABNY entered into consent orders with the OCC and FinCEN which included as a component a $24,000,000 civil money penalty.[62] In addition, ABNY agreed with the OCC to take certain remedial actions, including, among others, terminating any further funds clearing activities and converting to an agency. Neither the OCC nor FinCEN included in their consent orders with ABNY language stating a finding of wilfull or systemic violations of law or regulations by ABNY, or a failure by ABNY to correct past deficiencies cited by the regulators. In fact, until 2005, ABNY had no significant supervisory issues with the OCC or FinCEN with regard to AML or CFT. My observation in this regard is based upon the fact that all formal enforcement actions by the OCC are required to be made public and an examination of OCC records shows no such enforcement actions had been taken against ABNY.[63]

---

[60] *See* United States of America v. Wachovia Bank, N. A., U. S. District Court for the Southern District of Florida, Case No. 10-20165-CR-LENARD, March 16, 2010.

[61] *See* United States of American v. Sigue Corp. and Sigue, L.L.C, U.S. District Court for the Eastern District of Missouri, Case No. 08 cr. 54, January 28, 2008.

[62] Fed. Branch of Arab Bank PLC, 2005-14, Consent Order (OCC, Feb. 24, 2005) at pg. 2; FinCEN Order at pg. 8.

[63] In August of 1989, 12 U.S.C. § 1818(u), which established the publication requirement, was enacted into law.

Dated: New York, NY
January 31, 2012

Paul Allan Schott

EXHIBIT A: CURRICULUM VITAE OF PAUL ALLAN SCHOTT

Mr. Schott is an attorney in private practice in Washington, D.C. He is a nationally-recognized expert in bank regulatory matters, having served as Chief Counsel of the Office of the Comptroller of the Currency ("OCC"), Assistant General Counsel at the U.S. Treasury Department, and Senior Attorney at the Federal Reserve Board. He has authored books on anti-money laundering ("AML") and bank holding companies; published numerous articles; and spoken at many professional seminars. Currently, he works with foreign governments on enhancing AML and bank supervisory programs, as a consultant to the World Bank. He works with private clients on AML, bank and holding company powers, capital, privacy and various compliance and supervisory issues.

Mr. Schott has over 35 years of financial institutions regulatory experience. From 1994 to 2002, he was a consulting partner at PricewaterhouseCoopers LLP ("PwC") and its predecessor, Coopers & Lybrand, where he served as National Director for Bank Regulatory Services. At PwC, he authored "USA Patriot Act Increases Anti-Money Laundering Responsibilities for All Financial Institutions," and worked on bank chartering, enforcement, electronic banking, predatory lending and compliance matters.

From 1987-91, he served as Chief Counsel of the OCC, where he was responsible for all legal determinations at the federal agency that regulates national banks and federal branches and agencies of foreign banks. He reported directly to the Comptroller of the Currency and was involved at the highest level of the OCC in senior

management, policymaking and the development of supervisory strategies. As Assistant General Counsel at the U.S. Treasury Department from 1979-85, Mr. Schott was responsible for dealing with the savings and loan collapse and drafting legislative initiatives for the deregulation of banks and holding companies. From 1973-79, he served as a Senior Attorney at the Federal Reserve Board where he dealt with litigation, regulatory issues and bank holding company applications.

In private practice, he represented banks and financial institutions before regulatory agencies and Congress. From 1985-87, he was a partner with Barnett, Sivon, Schott & Shay; and, from 1991-94, he was a partner with Brown & Wood, both in Washington, D.C.

Mr. Schott authored the books: *Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism* (1st Ed., 2003; 2nd Ed., 2004 and 2nd Ed. and Supplement, 2006), published jointly by the World Bank and International Monetary Fund; and *Federal Banking Law: Bank Holding Companies* (1987 and update 1988), published by Warren, Gorham & Lamont, Inc. He co-authored the book, *Preventing Money Laundering and Terrorist Financing, A Practical Guide for Bank Supervisors* (2009), published by the World Bank. He also wrote numerous published articles, including:

- "New Basle Risk Principles for Electronic Banking," *Electronic Banking Law and Commerce Report*.
- "Predatory Lending: Where Do Things Stand?" *Banking & Financial Services Policy Report*.
- "FDICIA-Mandated Safety and Soundness Standards Pose Compliance Burden," *Banking Policy Report.*

- "Derivatives: A Prim er on Bank Ag ency Actions for Managing Risks," *Banking Policy Report*.
- "Expansion of Products and Services Offe red by Banks in the United S tates," International Monetary Fund.
- "The Audit and Reporting Requirem ents of Section 112 of FDICIA", *The Review of Banking & Financial Services*.

He serves on the Board of Advisors for Boston University School of Law and the Executive Council for the Banking Law Committee of the Federal Bar Association. In addition, he is a member of the Banking Law Committee of the American Bar Association, and previously served as Chair of the Financial Institutions Committee of the District of Columbia Bar Association.

Mr. Schott received his B.A. degree from Kent State University, his J.D. degree from Boston University School of Law and his LL.M. degree from Georgetown University Law Center.

EXHIBIT B: PUBLICATIONS DURING THE PREVIOUS TEN YEARS

1. Paul Allan Schott, et al., *Preven ting Money Laundering and Terrorist Financing; A Practical Gu ide for Bank Supervisors* , (The W orld Bank Publications, 2009).

2. Paul Allan Schott, *Reference Guide to An ti-Money L aundering and Combating the Financing of Terrorism*, (The World Bank Public ations, 1st Edition 2003, 2nd Edition 2004, 2nd Edition and Supplement 2006).

EXHIBIT C: EXPERT TESTIMONY DURING THE PREVIOUS FOUR YEARS

PAUL ALLAN SCHOTT
EXPERT WITNESS CASES

NAME OF CASE / COURT	NATURE OF EXPERTISE AND SERVICES PROVIDED
(1) *Dr. Enrico Bondi, As Extraordinary Commissioner of Parmalat, et al., v. Citigroup, et al.* Docket no. BER-L-10902-04. Superior Court of New Jersey, Law Division: Bergen County	• Money laundering. • Expert report filed with court on behalf of Defendant. • Deposition taken on behalf of Defendant.
(2) *Toys "R" Us Delaware, Inc., and Geoffrey, Inc. v. Chase Bank USA, N.A.* No. 13-148-02432-08 Commercial Arbitration American Arbitration Association New York, New York	• Role of supervisory guidance in amending existing contracts between a bank and third party. • Affidavit prepared for testimony at trial on behalf of Plaintiff.
(3) *Wayne Kirchhoff v. Canton State Bank* Case No. 05-RA CV00631 Circuit Court of Randolph County at Huntsville, Missouri	• Safe and sound banking practices and supervisory guidance in relation to hiring of senior bank management. • Deposition taken. • Testified at trial.
(4) *Leon v. Leon* Case No. BC376704 Superior Court of the State of California for the County of Los Angeles	• Licensing requirements for money transmitters under various state laws. • Deposition taken.
(5)	

HRB Tax Group Inc., et al., v. HSBC Bank USA, National Association, et al. Case No. 10 cv 01946 United States District Court Eastern District of Missouri Eastern Division	• Role of supervisory guidance in amending existing contracts between a bank and third party. • Status of supervisory guidance for enforcement purposes. • Deposition taken.
(6) Affinion Benefits Group, LLC v. Econ-o-check Corp. Case No. 3:09-CV-0273 United States District Court Middle District of Tennessee	• Disclosure of personal information under Federal privacy laws. • Expert report filed with to the court on behalf of Plaintiff.
(7) Courtney Linde, et al. v. Arab Bank, PLC Case No.CV-04-2799(NG)(VVP) and all related cases United States District Court for the Eastern District of New York	• Anti-money and terrorist financing. • Expert report filed with to the court on behalf of Defendant.
(8) City First Bank of DC, NA v. The New School for Enterprise and Development public Charter School, et al. Case No. Civil Action, File No. 0008174-09 Superior Court of the District of Columbia Civil Division	• Bank practices regarding account access procedures and governance. • Anti-money laundering • Deposition taken on behalf of Plaintiff.
(9) Vernon W. Hill II, Shirley Hill and InterArch, Inc., v. Commerce Bancorp, LLC and TD Bank, N.A. Case No. 1:09-CV-03685 (RBK-JS) United States District Court for the District of New Jersey	• Golden parachute payments. • "Troubled" status of banks. • Affidavits filed with the court on behalf of Plaintiffs.
(10) Henry I. Louis v. Sun Trust Bank and	• Safe and sound banking practices for

George J. Sybert, Sr.
Case No. 03-C-10-010890 CN

Circuit Court for Baltimore County, Maryland

checking accounts.

- Deposition taken on behalf of Plaintiff.

EXHIBIT D: LIST OF DOCUMENTS AND MATERIALS REVIEWED

A. Statutes/Regulations/Rules

- 31 U.S.C. §§ 5311-5355
- 31 C.F.R. § 103.18
- 12 U.S.C. § 1818
- 12 C.F.R. § 28.12
- 18 U.S.C. § 1956
- 18 U.S.C. § 1957
- 18 U.S.C. § 2339
- 12 C.F.R. § 21.21
- 31 C.F.R. § 103.120
- 52 Fed. Reg. 2858 (Jan. 1987)
- 61 Fed. Reg. 4331 (Feb. 5, 1996)
- 61 Fed. Reg. 14249 (Apr. 1, 1996)
- 61 Fed. Reg. 18250 (April 25, 1996)
- 65 Fed. Reg. 13692 (March 14, 2000)
- 67 Fed. Reg. 48348 (July 23, 2002)
- 67 Fed. Reg. 48350 (July 23, 2002).
- 71 Fed. Reg. 495 (Jan. 4, 2006)
- 67 Fed. Reg. 37736 (May 30, 2002)

B. Deposition transcripts (and exhibits thereto)

- E. Caravanos
- E. Caravanos 30(b)(6)
- W. Flouty
- T. Pacheco
- B. Billard
- B. Billard 30(b)(6)
- O. Asoli

- N. Barbar
- T. Scholtz

C. Documents Filed with the Court

- First Amended Complaint, *Linde et al., v. Arab Bank, plc* , No. 04-2799 (E.D.N.Y. Aug. 10, 2004), ECF No. 4.
- Def. Arab Bank, PLC's Mot. for Recons. of the Ct.'s Dec. 13, 2006 Order at Ex. A, *Linde, et al., v. Arab Bank, plc* , No. 04-2799 (and related actions) (E.D.N.Y. Dec. 27, 2006)
- Decl. of A. Howard in Opp. to Pls.' Objections Pursuant to F.R.C.P. 27(a) at Ex. B, *Linde, et al., v. Arab Bank, plc* , No. 04-2799 (and related actions) (and exhibits thereto) (E.D.N.Y. Feb. 12, 2007)
- Decl. of Anne T. Vitale in Supp. of Def. Arab Bank, plc's Mot. for Recons. of the Ct.'s Dec. 13, 2006 Order, *Linde, et al., v. Arab Bank, plc* , No. 04-2799 (and related actions) (E.D.N.Y. Dec. 27, 2006)
- Supplemental Resp. and Objections of Def. Arab Bank plc to Pl.'s Second Set of Joint Interrog. Directed to Def. Arab Bank plc (Dec. 28, 2010)

D. Other Public Source Documents

- *Linde, et al., v. Arab Bank, plc* , 384 F. Supp. 2d 571 (E.D.N.Y 2005)(J. Gershon ruling on Bank's motion to dismiss ATCA claims)
- Fed. Branch of Arab Bank PLC, 2005-2, Assessment of Civil Money Penalty, (FinCEN, Aug. 17, 2005)
- Fed. Branch of Arab Bank PLC, 2005-14, Consent Order (OCC, Feb. 24, 2005)
- Fed. Branch of Arab Bank PLC, 2005-101, Consent Order for Civil Money Penalty (OCC, Aug. 17, 2005)
- Financial Action Task Force, *FATF Standards, FATF 40 Recommendations*, (June 20, 2003), http://www.fatf-gafi .org//dataoecd/7/40/34849567.PDF (incorporating the Amendments of Oct. 22, 2004)
- Financial Action Task Force, *Special Recommendations on Terrorist Financing* (Oct. 22, 2004)
- Federal Financial Institutions Examination Council, *Bank Secrecy Act/Anti-Money Laundering Examination Manual* (2007), *available at* http://www.ffiec.gov/bsa_aml_infobase/documents/BSA_AML_Man_2007.pdf

- Basel Committee on Banking Supervision, *Consumer Due Diligence for Banks* , at ¶ 66, (October 2001), http://www.bis. org/publ/bcbs77.pdf.
- U.S. Dep't of Treas., *Resource Center, OFAC FAQs Question Index*, http://www. Treasury.gov/resour ce-center/faqs/Sanctions/ Pages/ques_index.aspx (follow "W ho m ust comply with OFAC regulations?" hyperlink)
- U.S. Dep't of Treas., Com ptroller of the Currency, *National Banks and the Dual Banking System* (Sept. 2003), *available at* http://www.occ.treas.gov/static/publications/DualBanking.pdf.
- U.N. General Assem bly, *International Convention for Suppression of the Financing of Terrorism* , G.A. Res. 54/109, Art. 2(1) (Dec. 9, 1999)
- Federal Reserve Board, Supervisory Letter, S R 02-18, July 23, 2002.
- New York Clearing Hous e Association L. L.C., *Guidelines for Counter Money Laundering Policies and Procedures in Correspondent Banking* (March 2002), at www.nych.org.
- *"About The OCC, Th e OCC's Objectives* ," available at http://www.occ.gov/about/what-we-do/mission/index-about.html.
- FinCEN Civil Money Penalties pertaining to the following:
    - In the Matter of Riggs Bank, NA, No. 2004-01 (May 13, 2004).
    - In the Matter of AmSouth Bank, No. 2004-02 (Oct. 12, 2004).
    - In the Matter of Banco de Chile-New York and Banco de Chile-Miami, No. 2005-03 (Oct. 12, 2005).
    - In the Matter of The New York Branch of ABN AMRO Bank, N.V., No. 2005-05 (Dec. 19, 2005).
    - In the Matter of Israel Discount Bank of New York, No. 2006-07 (Oct. 31, 2006).
    - In the Matter of American Express Bank International and American Express Travel Related Services Company, Inc., No. 2007-01 (Aug. 6, 2007).
    - In the Matter of Union Bank of California, N.A., No. 2007-02 (Sept. 17, 2007).
    - In the Matter of NY Branch United Bank for Africa, No. 2008-03 (April 28, 2008).
    - In the Matter of Wachovia Bank, No. 2010-1 (March 12, 2010).
- OCC Consent Orders pertaining to the following:

- Federal Branch of United Bank for Africa, 2007-03 (OCC, January 19, 2007).
- Federal Branch of United Bank for Africa, 2008-007 (OCC, Feb. 29, 2008).
- Federal Branch of United Bank for Africa, 2008-029 (OCC, Apr. 22, 2008).
- Federal Branch of United Bank for Africa, (OCC, April 22, 2008).
- Riggs Bank, 2003-79, (July 16, 2003).
- Riggs Bank, 2004-44, (May 13, 2004).
- New York Branch of Banco de Chile, 2005-2, (OCC, Feb. 1, 2005).
- Hernan Donoso, former general manager of the New York Branch of Banco de Chile, 2005-42, (OCC, Apr. 14, 2005).

- Deferred Prosecutions pertaining to the following:
  - United States of America v. Wachovia Bank, N. A., U. S. District Court for the Southern District of Florida, Case No. 10-20165-CR-LENARD, March 16, 2010.
  - United States of American v. Sigue Corp. and Sigue, L.L.C, U.S. District Court for the Eastern District of Missouri, Case No. 08 cr. 54, January 28, 2008.

E. Other Records Produced in Litigation

- ABPLC005847-5915
- ABPLC006306-6347
- ABPLC005922-5936
- ABPLC005982-6007
- ABPLC005358-5423
- ABPLC004284-4505
- ABPLC003957-4026
- ABPLC004106-4127
- ABPLC004992-5229
- ABPLC003908-3918
- ABPLC003920-3929
- ABPLC003863-3899
- ABPLC003900-3907
- ABPLC006357-6402
- ABPLC004509-4745
- ABPLC006161-6234
- ABPLC006435-6511
- ABPLC000720-734
- ABPLC000989-999
- ABPLC001091-1104
- ABPLC001110-1112
- ABPLC001079-1090
- ABPLC001116-1118
- ABPLC001199
- ABPLC001216
- ABPLC000802-808
- ABPLC003691-3754
- ABPLC003833
- ABPLC003834-3845
- ABPLC003919
- ABPLC005786-5846
- ABPLC005916-5921
- ABPLC005923-5929
- ABPLC005930
- ABPLC005932-5936
- ABPLC006288
- ABPLC006512-6807
- ABPLC200682-200701
- ABPLC200702-200715
- ABPLC200716-200720
- ABPLC200732-200739
- ABPLC200740-200747
- ABPLC200748-200755
- ABPLC200756-200763
- ABPLC206185-206208
- ABPLC206209-206210
- ABPLC206211
- ABPLC206212-206227
- ABPLC206309
- ABPLC207333
- ABPLC207334
- ABPLC207335
- ABPLC207339-207399
- ABPLC207459
- ABPLC207461
- ABPLC000989
- ABPLC001000-1008
- ABPLC001091-1104
- ABPLC001105-1107
- ABPLC003691-3754
- ABPLC001194-1195
- ABPLC001198-1199
- ABPLC001119-1120
- ABPLC001121-1122
- ABPLC001123-1124
- ABPLC001125
- ABPLC001196-1197
- ABPLC001200-1204
- ABPLC001205-1215
- ABPLC001218-1219
- ABPLC001223
- ABPLC001225-1236
- ABPLC001237-1252
- ABPLC001374-1375
- ABPLC001405-1406
- ABPLC001419
- ABPLC001426-1427
- ABPLC001428-1433
- ABPLC001434-1435
- ABPLC001436-1437
- ABPLC001438-1439
- ABPLC001453-1454
- ABPLC001455-1456
- ABPLC002055
- ABPLC002056-2067
- ABPLC002068-2077
- ABPLC002078
- ABPLC002126-2140
- ABPLC002141
- ABPLC004508